

# STATE OF COLORADO

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## STATE PERSONNEL BOARD

The Chancery Building  
1120 Lincoln Street, Suite 1420  
Denver, Colorado 80203  
(303) 894-2136  
(303) 894-2147 (FAX)



Bill Owens  
Governor

### AGENDA PUBLIC BOARD MEETING November 19, 2002

A public meeting of the State Personnel Board will be held on Tuesday, November 19, 2002, at the State Personnel Board, Chancery Building, 1120 Lincoln Street, Suite 1420, Denver, Colorado 80203. The public meeting will commence at 9:00 a.m.

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-894-2136 by November 14, 2002.

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#### I. REQUESTS FOR RESIDENCY WAIVERS

- A. November 1, 2002 Report on Residency Waivers.

Reports are informational only; no action is required.

#### II. PENDING MATTERS

- A. Retention Area Requests

1. Department of Personnel and Administration Letter - November 7, 2002.

- B. Outstanding Motions

1. Michael Rura v. Department of Higher Education, State Board of Agriculture, Colorado State University, State Personnel Board case number 2001G117.

Respondent's Motion For Reconsideration of Motion for Stay Pending Appeal was filed on October 21, 2002. Rura's Response to the Respondent's Motion for Reconsideration was filed on November 1, 2002.

- C. Petitions for Declaratory Order

1. Petition for Declaratory Order of Stan Margaritas, Gary Martz, Marion Hanson & Colorado Federation of Public Employees, on behalf of all persons similarly situated who are classified employees of Adams State College v. Trustees of the State Colleges in Colorado, Adams State College, State Personnel Board case number 2003D004.

On November 4, 2002, Stan Margaritas, Gary Martz, Marion Hanson & Colorado Federation of Public Employees, on behalf of all persons similarly situated who are classified employees of Adams State College, filed a Petition for Declaratory Order, requesting injunctive relief or declaratory relief regarding Adams State College's measures to reduce all classified staff to 0.90 FTE.

### **III. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR ON APPEAL TO THE STATE PERSONNEL BOARD**

There are no Initial Decisions or other Final Orders of the Administrative Law Judges or the Director on appeal to the Board this month.

### **IV. REVIEW OF PRELIMINARY RECOMMENDATIONS OF ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR TO GRANT OR DENY PETITIONS FOR HEARING**

- A. Elaine Robbins v. Department of Corrections, State Personnel Board case number 2003G001.

Complainant petitions the State Personnel Board to grant a discretionary evidentiary hearing to review the agency's response to her grievance. On October 31, 2002, a Preliminary Recommendation of the Director was issued, recommending that a hearing be denied.

- B. Renee Granzella v. Department of Corrections, State Personnel Board case number 2003G002.

Complainant petitions the State Personnel Board to grant a discretionary evidentiary hearing to review the agency's response to her grievance. On October 31, 2002, a Preliminary Recommendation of the Director was issued, recommending that a hearing be denied.

- C. Lura McKinley v. Department of Corrections, State Personnel Board case number 2003G003.

Complainant petitions the State Personnel Board to grant a discretionary evidentiary hearing to review the agency's response to her grievance. On October 31, 2002, a Preliminary Recommendation of the Director was issued, recommending that a hearing be denied.

- D. Tonie Best v. Department of Corrections, State Personnel Board case number 2003G004.

Complainant petitions the State Personnel Board to grant a discretionary evidentiary hearing to review the agency's response to her grievance. On October 31, 2002, a Preliminary Recommendation of the Director was issued, recommending that a hearing be denied.

- E. Ellen Mangione v. Department of Public Health and Environment, Disease Control Division, State Personnel Board case number 2002G124.

Complainant petitions the State Personnel Board to grant a discretionary evidentiary hearing to review the agency's response to her grievance. On November 4, 2002, a Preliminary Recommendation of the Director was issued, recommending that a hearing be denied.

**V. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES**

- A. Denise Sanders v. Department of Corrections, State Personnel Board case number 2002G079.

On October 22, 2002, an Amended Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's termination of Complainant during the probationary period was not arbitrary, capricious or contrary to rule or law; ordered that Respondent's action is affirmed; and dismissed Complainant's appeal with prejudice.

- B. Earl Hockett v. Department of Corrections, State Personnel Board case number 2002B091.

On October 29, 2002, an Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's termination of Complainant's employment was not arbitrary, capricious or contrary to rule of law. The ALJ ordered that Respondent's action is affirmed and Complainant's appeal is dismissed with prejudice.

- C. Tina Bowman v. Department of Revenue, State Personnel Board case number 2001S005.

On October 30, 2002, an Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's non-selection for a promotional position was not arbitrary, capricious or contrary to rule or law. The ALJ ordered that Respondent's action is affirmed and dismissed Complainant's appeal with prejudice.

**VI. REVIEW OF THE MINUTES FROM THE OCTOBER 15, 2002 PUBLIC MEETING OF THE STATE PERSONNEL BOARD**

**VII. ACKNOWLEDGMENTS**

**DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS OCTOBER 15, 2002 PUBLIC MEETING:**

- A. Eileen L. Rodgers v. Department of Regulatory Agencies, Board of Nursing, State Personnel Board case number 2001B087(C).

The Board voted to remand the matter to the Administrative Law Judge for purpose of providing notice to the parties for a response and for an order regarding the reasonableness of the submitted fees.

- B. Michael Rura v. Department of Higher Education, State Board of Agriculture, Colorado State University, State Personnel Board case number 2001G117.

The Board voted to deny Respondent's Motion for Stay Pending Appeal.

- C. Petition for Declaratory Order of Jeremiah M. Attridge v. Department of Personnel and Administration, State Personnel Board case number 2003D002.

The Board voted to deny the petition for declaratory order.

- D. Petition for Declaratory Order of Jeremiah M. Attridge v. Department of Personnel and Administration, State Personnel Board case number 2003D003.

The Board voted to deny the petition for declaratory order.

- E. Robert Terry v. Department of Public Health and Environment, State Personnel Board case number 2001G051.

The Board voted to enter an order, which comports with the remand from the Court of Appeals. The case is remanded to the Administrative Law Judge for purposes of allowing Complainant and Hobbs an opportunity to present evidence on the issue of attorney fees.

- F. Retention Area Request of Department of Agriculture.

The Board voted to grant, in part, the request of the Department of Agriculture to limit retention rights to major divisions of the Department.

- G. Retention Area Request of Department of Personnel and Administration.

The Board voted to table consideration of the above referenced matter to the next meeting when the Department of Personnel and Administration will have the opportunity to brief the Board concerning factors relevant to their request, pursuant to the Technical Assistance – Retention Area Requests.

- H. Blair Williams v. Department of Corrections, Colorado Territorial Correctional Facility, State Personnel Board case number 2002B057.

The Board voted to adopt the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge and to adopt the Initial Decision.

- I. Okechukwu B. Asobie v. Department of Higher Education, University of Colorado Health Sciences Center, State Personnel Board case number 2001G084.

The Board voted to adopt the Preliminary Recommendation of the Director and deny petition for hearing.

- J. Robert Brown v. Department of Public Safety, Colorado Bureau of Investigation, State Personnel Board case number 2002G090.

The Board voted to adopt the Preliminary Recommendation of the Director and deny the petition for hearing.

- K. Manuel Gonzales, Roberta Lucero, Augustin Quinonez & Raymond Owens v. Regents of the University of Colorado, University of Colorado Health Science Center, State Personnel Board case number 2002G144.

The Board voted to adopt the Preliminary Recommendation of the Director and deny petition for hearing.

## **VIII. REPORT OF THE STATE PERSONNEL DIRECTOR**

## **IX. ADMINISTRATIVE MATTERS & COMMENTS**

### **A. ADMINISTRATIVE MATTERS**

- Budget Report and Revenue and Expense Report

- Cases Scheduled for Preliminary Review
- Cases on Appeal to the Board and to Appellate Courts
- Notice of Rulemaking for December 17, 2002

B. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

**X. EXECUTIVE SESSION**

- A. Case Status Report
- B. Minutes of the October 2002 Executive Session

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**NEXT REGULARLY SCHEDULED BOARD MEETINGS**

**9:00 a.m.**

<u>Date</u>	<u>Location</u>
<b>December 17, 2002</b>	<b>Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222</b>
<b>January 21, 2003</b>	<b>Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222</b>
<b>February 18, 2003</b>	<b>Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222</b>
<b>March 18, 2003</b>	<b>Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222</b>
<b>April 15, 2003</b>	<b>Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222</b>
<b>May 20, 2003</b>	<b>Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222</b>
<b>June 17, 2003</b>	<b>Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222</b>